

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL L LUCKERT,
Plaintiff,

v.

GUTIERREZ,
Defendant.

Case No. [19-cv-08204-PJH](#)

ORDER

Re: Dkt. No. 173

Plaintiff, a former detainee, proceeds with a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff filed a motion for summary judgment (Dkt. No. 169) and defendant filed an opposition (Dkt. No. 171) addressing plaintiff's arguments and evidence. Defendant also filed a motion for summary judgment (Dkt. No. 170) on September 12, 2024, but plaintiff did not file an opposition. Plaintiff was provided an extension until November 25, 2024, to file an opposition. He was informed that the failure to submit a filing may result in the Court deeming the motion for summary judgment as unopposed. Plaintiff has not filed an opposition but did file a motion for relief. Dkt. No. 173.

Plaintiff states that he does not understand why he must file an opposition to defendant's motion, because he filed a summary judgment motion first. Dkt. No. 173 at 1. Plaintiff states that he is "done in this case" and all he will do is refile his summary judgment motion and change the caption to state "opposition." *Id.* at 2. He also requests that the Court send him copies of his prior motions and a three-week extension. *Id.*

Even though plaintiff filed a summary judgment motion, he still must file an opposition to defendant's motion. It is plaintiff's choice whether to oppose defendant's

1 motion for summary judgment or not. Plaintiff is again informed that failure to file an
2 opposition that addresses defendant's arguments and evidence may result in the Court
3 deeming the motion for summary judgment as unopposed.

4 Plaintiff's motion (Dkt. No. 173) is **GRANTED** in part. Because plaintiff is indigent,
5 the Clerk is requested to send plaintiff copies of Dkt. Nos. 146, 169. Plaintiff shall file an
6 opposition to defendant's motion for summary judgment by **December 16, 2024**.

7 **IT IS SO ORDERED.**

8 Dated: November 21, 2024

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10 /s/ Phyllis J. Hamilton

11 PHYLLIS J. HAMILTON
12 United States District Judge
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United States District Court
Northern District of California